

APPEAL NO. 142384  
FILED DECEMBER 30, 2014

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). This case returns following our remand in Appeals Panel Decision (APD) 140863, decided June 13, 2014, to reconstruct the record. A contested case hearing (CCH) on remand was held on August 7, 2014, in Fort Worth, Texas, with [hearing officer] presiding as the hearing officer. In the original CCH held on March 19, 2014, in Wichita Falls, Texas, with [hearing officer] presiding as hearing officer, the disputed issues before the hearing officer were:

1. Does the compensable injury of [Date of Injury], extend to and include right wrist carpal tunnel syndrome, right wrist cubital tunnel syndrome, chronic regional pain syndrome, ulnar neuritis of the right upper extremity, radial styloid tenosynovitis and/or medial nerve entrapment neuropathy?
2. Has the appellant (claimant) reached maximum medical improvement (MMI), and if so, on what date?
3. If the claimant has reached MMI, what is the impairment rating (IR)?

In the CCH on remand held on August 7, 2014, the hearing officer determined that: (1) the compensable injury of [Date of Injury], does not extend to right wrist carpal tunnel syndrome, right wrist cubital tunnel syndrome, chronic regional pain syndrome, ulnar neuritis of the right upper extremity, radial styloid tenosynovitis, and medial nerve entrapment neuropathy; (2) the claimant reached MMI on February 25, 2013; and (3) the claimant's IR is zero percent. The claimant appealed, disputing the hearing officer's extent of injury, MMI and IR determinations. The respondent (carrier) responded, urging affirmance of the disputed issues.

DECISION

Affirmed as reformed.

Section 410.203(b) was amended effective September 1, 2011, to allow the Appeals Panel to affirm the decision of a hearing officer as prescribed in Section 410.204(a-1). Section 410.204(a) provides, in part, that the Appeals Panel may issue a written decision on an affirmed case as described in subsection (a-1). Subsection (a-1) provides that the Appeals Panel may only issue a written decision in a case in which the panel affirms the decision of a hearing officer if the case: (1) is a case of first impression; (2) involves a recent change in law; or (3) involves errors at the CCH that

require correction but do not affect the outcome of the hearing. This case is a situation that requires correction but does not affect the outcome of the hearing.

The parties stipulated that: the compensable injury includes at least a right elbow sprain/strain and right elbow lateral epicondylitis; the Texas Department of Insurance, Division of Workers' Compensation (Division) selected (Dr. T) as the designated doctor on the issues of MMI and IR; Dr. T certified that the claimant reached MMI on February 25, 2013, with an assigned IR of zero percent; and the Division selected (Dr. W) as the designated doctor on the issue of extent of injury. In his decision and order, the hearing officer additionally states in Finding of Fact No. 1.H. that the parties stipulated that the date of statutory MMI is July 11, 2014. However, a review of the record indicates that although the parties discussed the date of statutory MMI, they did not agree to stipulate to a specific date. Therefore, we reform the hearing officer's decision by striking Finding of Fact No. 1.H.

### **EXTENT OF INJURY**

The hearing officer's determination that the compensable injury of [Date of Injury], does not extend to right wrist carpal tunnel syndrome, right wrist cubital tunnel syndrome, chronic regional pain syndrome, ulnar neuritis of the right upper extremity, radial styloid tenosynovitis, and medial nerve entrapment neuropathy is supported by sufficient evidence and is affirmed.

### **MMI/IR**

The hearing officer's determinations that the claimant reached MMI on February 25, 2013, and the claimant's IR is zero percent are supported by sufficient evidence and are affirmed.

The true corporate name of the insurance carrier is **XL SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**KIRK HOOD  
1021 MAIN STREET, SUITE 1150  
HOUSTON, TEXAS 77002.**

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Cristina Beceiro  
Appeals Judge

CONCUR:

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Carisa Space-Beam  
Appeals Judge

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Margaret L. Turner  
Appeals Judge